Commission Delegated Regulation (EU) No 568/2014 of 18 February 2014 amending Annex V to Regulation (EU) No 305/2011 of the European Parliament and of the Council as regards the assessment and verification of constancy of performance of construction products

COMMISSION DELEGATED REGULATION (EU) No 568/2014

of 18 February 2014

amending Annex V to Regulation (EU) No 305/2011 of the European Parliament and of the Council as regards the assessment and verification of constancy of performance of construction products

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC[(1)], and in particular Article 60(e) thereof,

Whereas:

(1) Pursuant to Article 28 of Regulation (EU) No 305/2011, assessment and verification of constancy of performance of construction products in relation to their essential characteristics is to be carried out in accordance with the systems set out in Annex V to Regulation (EU) No 305/2011.

(2) Annex V should be adapted in order to respond to technological progress, to make provision for the specific case of products for which European Technical Assessments have been issued, as well as to enhance the clarity, accuracy and consistency to the descriptions and terms used therein, in line with practical experience gained in the course of the application of Annex V.

(3) This adaptation would facilitate the work of manufacturers and notified bodies authorised to carry out third-party tasks in the process of assessment and verification of constancy of performance of construction products, reduce administrative burden and increase clarity on the interpretation of Regulation (EU) No 305/2011, thus having a favourable impact on the competitiveness of the construction sector as a whole.

(4) Regulation (EU) No 305/2011 implies that the manufacturer is responsible for determining the product-type for any product the manufacturer wishes to place on the market. In the same context, the underlying logic of Regulation (EU) No 305/2011 does not imply the existence of product certification, but notified bodies are only responsible for assessing the performance of construction products, the constancy of which is then to be certified. This repartition of competences between manufacturer and notified bodies should be better reflected in Annex V, without entailing a shift in the responsibilities of these actors.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 568/2014. (See end of Document for details)*

(5) Since constant surveillance of factory production control by notified bodies in fact is not possible and is not carried out in practice, reference should rather be made to the continuing nature of the surveillance.

(6) For construction products not covered or not fully covered by harmonised standards, European Technical Assessments (ETA) can be issued by a Technical Assessment Body. Pursuant to Article 2(13) of Regulation (EU) No 305/2011, such an ETA already contains an assessment of the performance of the product in question in relation to its essential characteristics. Additional subsequent controls of the correctness of this assessment process would not bring about any added value, but only generate unnecessary costs for manufacturers. Enterprises have already made requests for ETAs and need legal certainty with respect to the third-party tasks to be carried out in the process of assessment and verification of constancy of performance of these construction products.

(7) In order to better reflect the current practice the names of the types of notified bodies and the description of their respective tasks should be adjusted.

(8) A technical adaptation is necessary concerning the term ‘noise absorption’ referred to in Section 3 of Annex V to Regulation (EU) No 305/2011 to achieve a more accurate description of the essential characteristics to be assessed and more consistency with terminology used in relevant harmonised technical specifications.

(9) In order to ensure a smooth transition for manufacturers they should have the right to continue using certificates and other documents which were issued by notified bodies in accordance with Annex V to Regulation (EU) No 305/2011 before the entry into force of this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Annex V to Regulation (EU) No 305/2011 is replaced by the text in the Annex to this Regulation.

Article 2

Certificates and other documents issued by notified bodies in accordance with Annex V to Regulation (EU) No 305/2011 before the entry into force of this Regulation shall be deemed to comply with this Regulation.

Article 3

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 18 February 2014.

For the Commission

The President

José Manuel BARROSO

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 568/2014. (See end of Document for details)*

ANNEX

ANNEX V

ASSESSMENT AND VERIFICATION OF CONSTANCY OF PERFORMANCE

1. SYSTEMS OF ASSESSMENT AND VERIFICATION OF CONSTANCY OF PERFORMANCE

The manufacturer shall draw up the declaration of performance and determine the product-type on the basis of the assessments and verifications of constancy of performance carried out under the following systems:

1.1. **System 1+**

(a) The manufacturer shall carry out:

(i) factory production control;

(ii) further testing of samples taken at the manufacturing plant by the manufacturer in accordance with the prescribed test plan.

(b) The notified product certification body shall decide on the issuing, restriction, suspension or withdrawal of the certificate of constancy of performance of the construction product on the basis of the outcome of the following assessments and verifications carried out by that body:

(i) an assessment of the performance of the construction product carried out on the basis of testing (including sampling), calculation, tabulated values or descriptive documentation of the product;

(ii) initial inspection of the manufacturing plant and of factory production control;

(iii) continuing surveillance, assessment and evaluation of factory production control;

(iv) audit — testing of samples taken by the notified product certification body at the manufacturing plant or at the manufacturer's storage facilities.

1.2. **System 1**

(a) The manufacturer shall carry out:

(i) factory production control;

(ii) further testing of samples taken at the manufacturing plant by the manufacturer in accordance with the prescribed test plan.

(b) The notified product certification body shall decide on the issuing, restriction, suspension or withdrawal of the certificate of constancy of performance of the construction product on the basis of the outcome of the following assessments and verifications carried out by that body:

(i) an assessment of the performance of the construction product carried out on the basis of testing (including sampling), calculation, tabulated values or descriptive documentation of the product;